

REMARKS

Claims 1 – 15 are pending. The applicants respectfully request reconsideration and allowance of this application in view of the following remarks.

Claims 1 – 15 were rejected under 35 USC 102(e) as being anticipated by U.S. Patent No. 6,292,107, Yamaura et al. (“Yamaura”). The rejection is respectfully traversed for reasons including the following, which are provided by way of example.

Independent claim 1 recites, for example, “a voltage boosting control signal generating means ...; voltage boosting means...; and transmitting means operated with the boosted voltage for transmitting data, wherein a period of the voltage boosting control signal has a signal generation allowing period for allowing generation of the switching signal and a signal generation inhibiting period following the signal generation allowing period to inhibit generation of the switching signal, the signal generation allowing period being increased as time passes ...” Thereby, a boosted voltage is increased as time passes, i.e., as a function of time.

Furthermore, independent claim 4 recites, in combination, for example, “the voltage boosting control signal generating means sequentially generates the voltage boosting control signal to further increase the number of times of the switching operation of the voltage boosting means as time passes ...” Independent claim 5 recites, in combination, for example, “generating a voltage boosting control signal having an ON-period and an OFF-period at a first fixed frequency, the ON-period being increased as time passes...” FIG. 5 illustrates, for example, one or more embodiments where the signal generation allowing period is increased from t1 to t3 as time passes.

Without conceding that Yamaura discloses any feature of the present invention, Yamaura is directed to a keyless entry system transmitter with optimized signal transmission power level.

According to Yamaura, a voltage-setting output from the DAC 12b to the regulator 14 varies according to the above-described “number of repetitions of operation” and “function.” (Column 4, line 59 - 61). According to one embodiment, “four functions can be specified via the operation switch 11, namely 1) a door-lock/unlock function, 2) a trunk-open function, 3) a car-finder function, and 4) a panic function.” (Col. 3, lines 61 – 63.)

The office action asserts that Yamaura discloses the invention as claimed. To the contrary, Yamaura fails to teach or suggest the invention, as presently claimed, when the claims are considered as a whole. Yamaura fails to teach or suggest, for example, boosting voltage as time passes. (See, e.g., claims 1, 4 and 5.) To the contrary, Yamaura can increase voltage only when an operator repeatedly operates the same button.

Furthermore, Yamaura completely fails to teach or suggest the details of the regulator 14, particularly how it increases the voltage. In Yamaura, a voltage supplied from a regulator 14 to a transmitter 15 is increased. Yamaura fails to teach or suggest the structure for increasing voltage, and in particular fails to teach any details of the regulator 14.

Moreover, independent claims 1 and 4 recite various elements in means plus function format. With respect to means plus function language, the Court of Appeals for the Federal Circuit, in its *en banc* decision *In re Donaldson Co.*, 16 F.3d 1189, 29 USPQ2d 1845 (Fed. Cir. 1994), held that:

Per our holding, the "broadest reasonable interpretation" that an examiner may give means-plus-function language is that statutorily mandated in paragraph six.

Accordingly, the PTO may not disregard the structure disclosed in the specification corresponding to such language when rendering a patentability determination. (Emphasis added.)

Therefore, a "means or step plus function" limitation should be interpreted in a manner consistent with the specification disclosure. The Federal Circuit explained the two step analysis involved in construing means-plus-function limitations in *Golight Inc. v. Wal-Mart Stores Inc.*, 355 F.3d 1327, 1333-34, 69 USPQ2d 1481, 1486 (Fed. Cir. 2004): "The first step in construing a means-plus-function claim limitation is to define the particular function of the claim limitation. ... The next step in construing a means-plus-function claim limitation is to look to the specification and identify the corresponding structure for that function." (*Id.*; citations omitted.) Here, the examiner has failed to consider the next step and accordingly has not looked at the specification. In some instances, the examiner has not considered structure specified in the claim.

The MPEP requires that the examiner must find that a prior art element: (A) performs the function specified in the claim, (B) is not excluded by any definition provided in the specification for an equivalent, and (C) is an equivalent of the means-plus-function limitation. Factors that will support a conclusion that the prior art element is an equivalent are: (1) the prior art element performs the identical function specified in the claim in substantially the same way, and produces substantially the same results as the corresponding element disclosed in the specification. *Kemco Sales, Inc. v. Control Papers Co.*, 208 F.3d 1352, 54 USPQ2d 1308 (Fed. Cir. 2000); (2) a person of ordinary skill in the art would have recognized the interchangeability of the element shown in the prior art for the corresponding element disclosed in the specification. *Caterpillar Inc. v. Deere & Co.*, 224 F.3d 1374, 56 USPQ2d 1305 (Fed. Cir. 2000); (3) there are insubstantial differences between the prior art element and the corresponding element disclosed in the specification. *IMS Technology, Inc. v. Haas Automation, Inc.*, 206 F.3d 1422, 1436, 54 USPQ2d 1129, 1138 (Fed. Cir. 2000); (4) the prior art element is a structural equivalent of the corresponding element disclosed in the specification. *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990), i.e., the prior art element performs the function specified in the claim in

substantially the same manner as the function is performed by the corresponding element described in the specification. (MPEP § 2183.) The examiner has failed to do this.

Yamaura fails to teach or suggest, for example, these elements recited in independent claims 1, 4, and 5. It is respectfully submitted therefore that claims 1, 4 and 5 are patentable over Yamaura.

For at least these reasons, the combination of features recited in independent claims 1, 4, and 5, when interpreted as a whole, is submitted to patentably distinguish over the prior art. In addition, Yamaura clearly fails to show other recited elements as well.

With respect to the rejected dependent claims, applicants respectfully submit that these claims are allowable not only by virtue of their dependency from independent claims 1, 4, and 5, but also because of additional features they recite in combination.

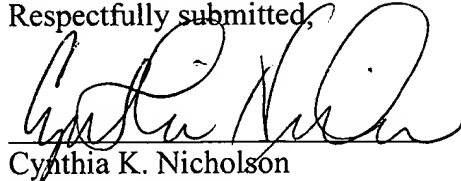
Applicants respectfully submit that, as described above, the cited prior art does not show or suggest the combination of features recited in the claims. Applicants do not concede that the cited prior art show any element recited in the claims. However, applicants have provided specific examples of elements in the claims that are clearly not present in the cited prior art.

Applicants strongly emphasize that one reviewing the prosecution history should not interpret any of the examples applicants have described herein in connection with distinguishing over the prior art as limiting to those specific features in isolation. Rather, for the sake of simplicity, applicants have provided examples of why the claims described above are distinguishable over the cited prior art.

In view of the foregoing, the applicants respectfully submit that this application is in condition for allowance. A timely notice to that effect is respectfully requested. If questions relating to patentability remain, the examiner is invited to contact the undersigned by telephone.

Please charge any unforeseen fees that may be due to Deposit Account No. 50-1147.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Cynthia K. Nicholson', written over a horizontal line.

Cynthia K. Nicholson

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